

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANA MARGARITA MARTINEZ,

Plaintiff,

Case No. 07 CV 6607 (VM)

vs.

THE REPUBLIC OF CUBA,

Defendant.

**PLAINTIFF ANA MARGARITA MARTINEZ' APPLICATION
FOR CLERK TO ENTER DEFAULT AGAINST
THE REPUBLIC OF CUBA**

Plaintiff Ana Margarita Martinez ("Plaintiff" or "Ms. Martinez"), by and through undersigned counsel, and pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, and Local Civil Rule 55.1 of the Local Rules of the United States District Court for the Southern District of New York, hereby requests that the Clerk of the Court enter a default against Defendant, the Republic of Cuba, and states as follows:

1. On July 23, 2007, Ms. Martinez commenced this action by filing her Complaint for an action on a judgment against the Republic of Cuba. Plaintiff's Complaint seeks to have this Court recognize, pursuant to the Full Faith and Credit clause of Article IV, §1 of the United States Constitution (as implemented by 28 U.S.C. §1738), a final judgment entered in her favor against the Republic of Cuba in the case styled as Ana Margarita Martinez v. The Republic of Cuba, Case No. 99-18008 CA 20. The Florida state court judgment awarded Ms. Martinez compensatory damages in the amount of \$7,175,000.00.¹

¹ As explained in Plaintiff's Complaint, Plaintiff has received payment on her Florida state court judgment totaling \$206,659.59. The total amount of the principal which remains unsatisfied is

2. Plaintiff's claims are brought pursuant to the Foreign Sovereign Immunities Act, 28 U.S.C. §§1602, et seq. ("FSIA"), which sets forth the procedures to follow in commencing an action and obtaining service of process upon a foreign state.

3. A summons was issued for the Republic of Cuba by the Clerk of the Court on July 23, 2007, and the Clerk served the Republic of Cuba with copies of the Complaint, summons and Notice of Suit on August 20, 2007, pursuant to Rule 4(f)(2)(c)(ii) of the Federal Rules of Civil Procedure.

4. Pursuant to the requirements outlined in the summons and §1608(d) of the FSIA, the Republic of Cuba was required to serve a response to the Complaint on or before October 20, 2007. The Republic of Cuba has not served any response to the Complaint within the time allotted for service. The republic of Cuba is therefore in default.

5. Ms. Martinez therefore requests that the Clerk of the Court issue a Certificate of Default against the Republic of Cuba pursuant to Rule 55(a) of the Federal Rules of Civil Procedure and Local Civil Rule 55.1 of the Local Rules of the United States District Court for the Southern District of New York. In accordance with Local Rule 55.1, Ms. Martinez is separately filing the Declaration of Joseph A. DeMaria, Esq. in support of this Application.

\$26,968,340.41.

Respectfully submitted,

TEW CARDENAS LLP
Counsel for Plaintiff
Ana Margarita Martinez
1441 Brickell Avenue, 15th Floor
Miami, Florida 33131
Phone: 305 536-1112

By: S/ Joseph A. DeMaria
Joseph A. DeMaria (JD 5668)
Bryan T. West (BW 8739)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 13, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. I also served the foregoing to the following non-CM/ECF participant via DHL Worldwide Express on the following:

REPUBLIC OF CUBA
Minister of Foreign Relations
Felipe Perez Roque
Calzada No. 360, Esquina AG
Vedado, Havana Cuba

S/ Joseph A. DeMaria
Joseph A. DeMaria